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SUBJECT: BAGHDAD'S CRIMINAL JUSTICE SYSTEM -- OVERTAXED AND  
GETTING WORSE

REF: 06 BAGHDAD 4572

11. (U) This is a Baghdad PRT reporting cable.

12. (SBU) Summary: Judicial investigators and investigative judges, and personnel at the Iraqi Bar Association (IBA), the Iraqi Jurists Union (IJU), local police stations, and provincial courthouses consistently tell the PRT Baghdad Rule (ROL) of Law Team that they are over-worked and under-paid, and lack protection, training and support. In addition, judges and police officials assert that current GOI training and support is inadequate to handle the volume of criminal activity and detainees. The lack of due process and procedural transparency further degrade security, detainee management, and legal adherence. This failure by an overwhelmed criminal justice system is undermining efforts to establish credible rule of law in Baghdad. End summary.

13. (SBU) Background: The Iraqi Bar Association (IBA) and the Iraqi Jurists Union (IJU) are key non-governmental and governmental actors in Iraqi rule of law. Founded in 1933, the IBA is a standout Iraqi legal association with its inclusive approach to ethnicity and Islamic sect. Similarly, the IJU claims more than 504,000 members throughout Iraq, including Jews, Christians, Arabs, and Kurdish lawyers. Unlike the IBA, which is wholly comprised of lawyers in private practice, IJU membership has included governmental lawyers, judges, prosecutors, and judicial investigators since its founding in 1962. The IJU is a member of the larger Arab Jurist Union, whose current President is an Iraqi citizen. With offices and membership across Iraq, the IJU has access to resources nationwide resources, and sponsors two law schools in Basra and Balad. The IBA and the IJU expressed admiration for the US judicial system and welcomed USG assistance in building the Iraqi legal system into a modern, transparent, and functional entity. Leadership in both organizations, however, expressed ongoing frustration that such support is at best sporadic. End background.

Curriculum-Based Training Critical for Investigative Judges  
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14. (SBU) Iraqi ROL stakeholders reported that inadequately trained investigative judges are not processing cases in accordance with Iraqi criminal law, or in a manner appropriate to the major crimes and terrorism-related offenses impacting Baghdad today. The IJU claimed that inadequate training and experience--based largely on pre-2003 models and compounded by de-Baathification and an antiquated court structure--has limited the mentorship of newly-appointed investigative judges from more experienced colleagues. As a result, inexperienced investigative judges often defer decisions to release or move detainees to trial for fear of making the wrong choice. Baghdad investigative judges and judicial investigators, alongside other ROL stakeholders, agreed that curriculum-based instruction,

rather than ad hoc, on-the-job training, is critical to addressing the deficit in professional confidence and competence.

#### Poor Logistical Support

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¶15. (SBU) Judicial investigators across Baghdad reported that logistical constraints, overwhelming case loads, and poor security have dramatically reduced the number of investigations closed or moved forward for trial. They lack basic investigative tools such as cameras and plastic evidence bags as well as other equipment necessary to support investigations. For example, the four judicial investigators at Baghdad,s Bab al-Muatham police station in the al-Rusafa district carry an extraordinary caseload (approximately 500 cases each) as compared to their colleagues in neighboring police stations. The Iraqi Judicial Branch, known as the Higher Juridical Council (HJC), does not provide vehicles, fuel, phones or other basic operating tools, nor does the HJC fund job-related expenses. As a result, judicial investigators often pay for work-related expenses out of their own pocket in order to do their job. (Note: Judicial Investigators earn approximately 350,000 dinars (USD 235) per month. End note.) For example, some judicial investigators must personally pay for juveniles to undergo the Age Determination Process. Iraqi Police no longer provide an escort to judicial investigators to crime scenes or to locate witnesses. Judicial investigators asserted that these constraints preclude them from leaving their local police stations altogether.

#### Inconsistent Backing from Iraqi Security Forces

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¶16. (SBU) Further complicating the efficacy of the criminal justice system is a widely demonstrated lack of respect for the judiciary by Iraqi Security Forces. At Bab al Muatham, co-located with a Joint Security Station (JSS), Iraqi Army units recently took over the judicial investigators, offices in the station without sufficient notice or cause. Judicial investigators and investigative judges reported feeling marginalized at their police stations, blaming a lack of respect and understanding for their role. Consistently, judicial investigators reported little direct contact with investigative judges located at other stations. (Note: judicial investigators report to investigative judges. End note.)

¶17. (SBU) The experience at Bab al Muatham LPS stands in contrast to al-Sa,adoun LPS, also located in Baghdad,s al-Rusafa district, where judicial investigators reported a good working relationship with police investigators, investigative judges, and local prosecutors. As a result, al- Sa,adoun,s judicial investigators, who labor under the same equipment and technical support deficits, only carry an average 75 cases each and generally complete their investigations within three months. Such localized disparity, particularly within the same district, appears driven by the local police,s opinion of the Judiciary,s professional competence and enforcement capabilities, rather than sectarian differences.

#### Overcrowding at Detention Facilities

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¶18. (SBU) Inadequate training, logistical obstacles and a poor relationship with police has degraded the ability of investigative judges to issue orders for release or trial, which is adding to serious overcrowding in detention facilities across Baghdad. (Note: this is helping to perpetuate a juvenile detention crisis reported SEPTTEL. End note.) Baghdad ROL stakeholders claim that the myriad of problems facing judicial investigators and investigative

judges is resulting in detainees being held without any action or disposition for time periods in excess of the limits of Iraqi law. Both judges and police assessed that fair and timely case processing will greatly reduce the need for more detention facilities.

Comment

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19. (SBU) Implementing effective training programs and facilitating professional mentorship for Baghdad judicial investigators and investigative judges is essential to case quality and management. While approximately 1,000 judges across Iraq receive Coalition training, nearly 40,000--including judicial investigators and investigative judges--do not benefit from such programs. Increased support from the HJC to district level investigative judges and judicial investigators can also increase broader understanding of their role among Iraqi security forces. These steps will work to provide relief to overcrowded detention facilities, and renew professional and popular confidence in the Baghdad criminal justice system. End comment.  
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